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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourth session

SUMMARY RECORD OF THE 85th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 27 September 1993, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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The meeting was called to order at 10.30 a.m.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE (agenda item 2) (continued)

1. In accordance with rule 15 of the provisional rules of procedure, Mrs. SARDENBERG, a member of the Committee who had been absent the previous week, made the solemn declaration provided for in item 2 of the annotated agenda (CRC/C/17).

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION (agenda item 8) (continued)

Initial report of El Salvador (CRC/C/3/Add.9, CRC/C.4/WP.6)

2. At the invitation of the Chairperson, the Salvadorian delegation, composed of Mr. Mendoza, Ambassador at the Permanent Mission of Geneva, Ms. Escobar, Counsellor at the Mission and Ms. Novoa, Consul in Milan, took places at the Committee table.

3. The CHAIRPERSON requested the head of the Salvadorian delegation to introduce the initial report of El Salvador (CRC/C/3/Add.9).

4. Mr. MENDOZA (El Salvador), noting that El Salvador was one of the first 20 countries where the Convention had entered into force, emphasized the importance of that instrument for his country, which had not entered any reservation to it. He added that the very submission of the report, which had been postponed for a few days in order to provide the Committee with a fuller document, had been a priority for the Salvadorian Government. A number of ministries and social organizations, as well as various non-governmental organizations (NGOs), had participated in the preparation of the report, which began by describing the tragic reality and consequences of the war that El Salvador had experienced for almost 12 years. More than a conventional report, it was an instrument designed to depict the situation of children in El Salvador and to seek solutions to the difficulties confronting them.

5. Because of the war, 1 million Salvadorians had been forced to leave the country and families had been separated. However, a number of those who had found refuge in the neighbouring States had returned. Some 500,000 persons had been displaced within El Salvador. The country had undergone a distressing war in which children had been killed, murdered or mutilated by mine explosions. In that connection, the Mission of El Salvador in Geneva was cooperating in the work of the International Committee of the Red Cross concerning regulation of the use of weapons.

6. As soon as he had entered office on 1 June 1989, President Cristiani had sought a peaceful solution to the conflict in conjunction with the United Nations and its Secretary-General and with the Central American Presidents. On 31 December 1991, a peace agreement had been signed between the Salvadorian Government and the Frente Farabundo Marti para la Liberación Nacional (FMLN), whose military structure had been gradually dismantled

during 1992. Now there was peace, El Salvador was in a position to get over the war and develop the health, education, justice and labour infrastructure that had suffered from it.

7. Since the submission of the initial report in November 1992, a number of draft instruments mentioned in it had become realities. The Legislative Assembly would shortly be adopting the Family Code, which proclaimed the rights and duties of Salvadorian children and mentioned the principles of the Convention. In addition, the Institute for the Protection of Minors had been set up by a Legislative Decree of March 1993. The programmes established by the National Secretariat for the Family had progressed and children were benefiting from the improved coordination of its activities. The Office of the Government Procurator for the Defence of Human Rights (Procuraduría para la Defensa de los Derechos Humanos), established under the process of dialogue initiated at the national level, had begun functioning in June 1992. The Office included a Deputy Government Procurator for the Defence of the Rights of the Child. Extensive publicity was given to the Convention and to other international instruments through the Human Rights Institute. He stressed the importance of the Committee's assistance in carrying out those tasks.

8. His delegation had not yet received the replies of the Salvadorian Ministry of Foreign Affairs concerning the list of issues to be taken up in connection with the consideration of the initial report (CRC/C.4/WP.6); those replies should reach it by 28 September at the latest. However, his delegation was ready to reply immediately, to the best of its ability, to any questions which members of the Committee might wish to put.

9. The CHAIRPERSON thanked the Salvadorian delegation for its very informative introduction on the situation in the country and on the efforts made to implement the Convention. She was sure that the delegation would give more precise information supplementing that contained in the report. She requested clarifications concerning the replies to the written questions.

10. Mr. MENDOZA (El Salvador) said that the written list of issues had been transmitted to the Salvadorian Government, but that his delegation had not yet received the replies. Perhaps there was a mix-up over dates, since El Salvador was originally to have presented its report later in the week.

11. Mrs. SANTOS PAIS said she appreciated the awkward situation in which the non-receipt of the replies to the Committee's written questions had placed the members of the Salvadorian delegation. That communication problem would not have arisen if the delegation had included persons participating in policy-making concerning children. The aim of the dialogue between the Committee and delegations was to elucidate the efforts being made to implement the Convention, the measures taken to that end and the difficulties encountered, so that the Committee could help countries to find better solutions to their problems. Two months before each session, a working group of the Committee met to prepare thoroughly for the dialogue and drew up a written list of issues so that delegations and Governments had sufficient time to prepare their replies. Naturally, the list of issues was designed to clarify some of the points dealt with by the Convention, and not to raise new issues outside that framework. In most cases, the aim was to obtain clarifications and to stress the real significance of the provisions of the

Convention. It was in no way the objective to embarrass Governments by asking them to provide information which was so specific that it would be very difficult to obtain. Of course, statistical data were useful in showing whether or not the policies followed were adapted to the problems encountered, but such data could be submitted in writing at a later stage when they were not available immediately. The dialogue was now open, and the best procedure would be for the Salvadorian delegation to try and give some replies to the written questions. She welcomed some of the positive steps taken to improve the application of the Convention in El Salvador of which the Committee had just been informed.

12. Mgr. BAMBAREN GASTELUMENDI thanked the Salvadorian delegation for introducing the report. El Salvador had been one of the first countries to ratify the Convention, and it had submitted its initial report in 1992. He then proceeded to highlight certain points. The Salvadorian delegation had mentioned the need for united efforts in the country's current pacification phase. It had also referred to the need to incorporate the new rights and duties of children in the new Family Code. Now that the country was emerging from a situation in which children had been caught up in a spiral of violence that had claimed thousands of orphans, it was important for children to participate in the efforts being made to build peace. He inquired what had been or was still the role of popular participation and the NGOs in the preparation, planning and follow-up of projects designed to publicize the principles of the Convention and what had been their role in the preparation of replies to the written questions. Bearing in mind the social conditions in which children lived, extensive participation by the NGOs and the grass-roots organizations should help to reinforce the application of the provisions of the Convention.

13. He asked what was being done by the Office of the Government Procurator for the Defence of Human Rights, set up in February 1992, to protect and promote the rights of children. At the 1992 session of the Commission on Human Rights, El Salvador had stated that it had received 92 complaints concerning violations of children's rights. He asked what action had been taken on those complaints and whether inquiries had been conducted. Moreover, how were other government institutions participating in efforts to promote the rights of children and monitor the implementation of the Convention? Had progress been made in the legislative field? He further asked what proportion of the national budget was devoted to meeting children's needs and, lastly, whether the Convention could be invoked in court.

14. Mr. HAMMARBERG, recalling the objectives of the Committee, said that the Committee wished to initiate a substantive dialogue in the hope that it would encourage a more wide-ranging debate in the country itself and would serve as a basis for discussion on the provision of international assistance, assistance which El Salvador would apparently like to receive. He therefore regretted that the dialogue between the Committee and the Salvadorian delegation was commencing with a certain handicap, but he agreed with other members that it should proceed. The Committee would see where it led and might perhaps finally decide that it should continue the discussion in a particular way, depending on how it had started.

15. The report in document CRC/C/3/Add.9 showed the effects of poverty on children. Statistical data of WHO, UNICEF and other agencies showed that El Salvador was facing more serious problems than other countries of the region in the fields of health care for children, particularly disadvantaged children, and education. The statistics were alarming: only 23 per cent of children of school age completed primary education, whereas the others dropped out somewhere along the way. That raised the question of how budgetary priorities were determined. Under article 4 of the Convention, States parties pledged to undertake all appropriate legislative, administrative and other measures for the implementation of the economic, social and cultural rights recognized in the Convention to the maximum extent of their available resources and, where needed, within the framework of international cooperation. "International cooperation" meant both bilateral assistance and multilateral assistance. The Committee would like to have an exchange of views with the Salvadorian delegation on that specific point. However, that article should not be interpreted to mean that an extremely poor country could, under the pretext of needing assistance, avoid a debate on the determination of priorities in the context of the resources available to it. Consideration should be given both to assistance requirements and the responsibility of the donor community, on the one hand, and to priorities as set out in the existing budget, on the other. It would be desirable to describe the budget process and the way in which the debate on the budget was conducted. Among the Committee's main concerns were the sufferings of children caused by poverty and the lack of justice in the allocation of budgetary resources; that was a question of social justice vis-à-vis children.

16. Mr. MENDOZA (El Salvador) said it was regrettable that the replies by the Salvadorian authorities had not arrived. That should not be viewed as a refusal to cooperate with the Committee. On the contrary, his delegation was very interested in the dialogue with the Committee and would be reporting on it in detail to the Salvadorian authorities.

17. In reply to the questions raised by Mgr. Bambaren Gastelumendi, he said that his country's initial report had aroused considerable interest among the population. It had not simply been drawn up to gather dust on library shelves, but had been conceived as a key document designed to explain the situation of children in the country. Consequently, the authorities had disseminated it as widely as possible, thus facilitating the participation of NGOs and of some grass-roots organizations. Coordination had been established between various NGOs with regard to the rights of the child. The report had therefore given rise to close cooperation with the general public and the NGOs.

18. The Office of the Government Procurator for the Defence of Human Rights was one of the elements in the system for the protection of minors, which also comprised the Institute for the Protection of Minors, the National Secretariat for the Family and the competent services of the Ministry of Justice, as well as the Presidential Commissioner for Minors, whose area of authority was essentially education. The Government Procurator for the Defence of Human Rights took cognizance of all complaints addressed to his office; with regard to minors, a post of Deputy Government Procurator for the Defence of the Rights of the Child had been created. The Deputy Government Procurator had

decided that the decisions of his service would be publicized in the country's main media, subject to certain reservations designed to ensure that children's dignity was not impaired.

19. Progress had been made in 1993 in the legislative field. The Family Code would be a very important instrument for the promotion of the rights of the child. Other bodies were preparing new laws, including one designed to guarantee juvenile offenders adequate treatment in accordance with Salvadorian legislation. Moreover, a public information document had been issued when the Convention had been ratified by the Legislative Assembly. The document indicated that the Convention contained no provision that was contrary to the Salvadorian Constitution. It was therefore a national law which could be invoked before the courts.

20. Mr. MOMBESHORA said he proposed to adhere to the questions appearing in the list of issues drawn up by the Committee and then, depending on the replies given by the delegation of El Salvador, to request it to provide supplementary information. With regard to mass displacements of persons within and outside the country, he noted that no figures were given in the report; he would like to know what measures had been taken with regard to such persons. Were there agreements with host countries for the reintegration of displaced persons? He would also welcome information on the activities of the Office of the United Nations High Commissioner for Refugees, for none was given in the report of El Salvador.

21. Mrs. SANTOS PAIS agreed with the other members of the Committee on the working method to be adopted and expressed regret that the Salvadorian delegation was not in a position to provide replies to the written questions, thereby jeopardizing the Committee's working methodology. First of all, she would like to know how the Convention on the Rights of the Child was applied in El Salvador. She asked whether there were mechanisms for coordinating or evaluating the policies introduced to implement the Convention, whether measures had been taken for the protection and advancement of children in urban and rural areas, and whether the Salvadorian Government was aware that the promotion and protection of the rights of the child must be given priority, particularly in the allocation of budgetary resources. Those general aspects of the implementation of the Convention were of particular interest to the Committee, and it was therefore important to follow the list of issues drawn up by the Committee in order to give a clear picture of the realities. She would like to know whether the provisions of the Convention could be invoked in court and to have further details on the harmonization of the provisions of national legislation with those of the Convention. Lastly, she said that the Committee would like to know what exactly was the legal situation in El Salvador as far as the rights of the child were concerned.

22. Mr. MENDOZA (El Salvador), replying to the question put by Mr. Hammarberg, acknowledged that the extreme poverty in El Salvador had disturbing repercussions for the situation of children. However, the Salvadorian Government was endeavouring to enforce the rights of children, and also to ensure economic, social and cultural rights, so as to improve that situation, particularly in the health sector. El Salvador had even received a UNICEF prize for its efforts to reduce the infant mortality rate. He added that the new Family Code included specific provisions on the rights of

disabled children. Regarding education, the Salvadorian Government had adopted a series of measures to enable children in rural areas to receive a schooling. Lastly, he said that international cooperation was essential in the two priority areas of education and health.

23. The CHAIRPERSON asked the members of the Committee whether they had any comments to make on the replies given by the representative of El Salvador.

24. Mrs. MASON suggested that the delegation should be given a copy of the list of issues drawn up by the Committee and transmitted to the Salvadorian Government and that the representatives of El Salvador in Geneva should be asked to reply to those questions and to supplement their information as soon as they had received official replies from El Salvador. She noted that Mr. Mendoza had referred to considerable progress in the status of children in El Salvador and had reported on laws adopted or in the process of adoption. She inquired, firstly, whether the laws adopted were accompanied by administrative measures and, secondly, how that progress had been measured and what proportion of the population would benefit from the measures taken, considering that, according to the report, there had been no population census for the last 10 years.

25. Mr. KOLOSOV said that after reading the El Salvador report he was reminded yet again of the importance of the Convention on the Rights of the Child. Under that Convention, all States parties were required to examine the precise situation of children in their country. It was therefore important for the Committee to establish a dialogue with the Salvadorian delegation so as to analyse the actual situation of children in the country and the existing difficulties, and particularly to adopt practical measures to improve the situation of children. It was regrettable that no one in the Salvadorian delegation dealt directly with child welfare policy in El Salvador; he hoped that the delegation would nevertheless be in a position to enter into a constructive dialogue. He recalled that a similar situation had arisen in connection with the consideration of Bolivia's report; at that time, the Bolivian delegation had succeeded in obtaining all the necessary replies by fax. Given the situation, he proposed that the timetable should be modified.

26. He wished to put two questions relating to the oral replies given by the Salvadorian delegation. Firstly, the report stated that the Convention on the Rights of the Child had become a law of the Republic. Like Mrs. Santos Pais, he would like to know whether the provisions of the Convention could be invoked in court and, if so, whether that had already occurred. He personally doubted that they had been so invoked, since two thirds of the child population lived in poverty and experienced extremely high illiteracy rates. Because of those factors, he believed that the population would not have sufficient knowledge to defend the rights of children before the courts and appeal to the courts. In Russia, where the illiteracy rate was not so high, there had been only one case in which a complainant had attempted to invoke the provisions of the Convention in court. Secondly, he would like to know what was the actual situation in El Salvador regarding military service and, in that connection, to have some explanations concerning paragraph 34 of the report, which stated that "Military service is compulsory for all Salvadorian

males between the ages of 18 and 30" and that "the Military Service and Armed Forces' Reserve Act also regulate[s] voluntary military service between the ages of 16 and 18".

27. Mgr. BAMBAREN GASTELUMENDI, Mr. HAMMARBERG and Mrs. EUFEMIO supported Mr. Kolosov's proposal to revise the timetable, while considering that the Salvadorian delegation should be allowed to reply to the questions which it was in a position to answer without awaiting an official document from El Salvador.

28. Mr. MENDOZA (El Salvador) said he regretted the absence of written documents, the reasons for which escaped him. He was agreeable to modifying the timetable and noted with satisfaction that the questions put were very relevant. Mr. Mombeshora had remarked that the question of refugees was not adequately dealt with in the report; that was because, while UNHCR had played a very important role in the refugee field, at the time when the report had been prepared refugees had no longer been refugees but, rather, repatriated or displaced persons and hence had no longer come under UNHCR's mandate. UNDP gave support to displaced persons in El Salvador. He added that there was a project for assistance to displaced children which was supported by the Italian Government. Lastly, he said that he was entirely at the disposal of members of the Committee to answer all the questions they might wish to ask.

29. The CHAIRPERSON suggested that the meeting should be suspended so as to enable the members of the Committee to decide on the method to follow in considering the El Salvador report.

30. It was so decided.

31. The meeting was suspended at 11.50 a.m. and resumed at 12.05 p.m.

32. The CHAIRPERSON said that, in the absence of written replies from El Salvador, the members of the Committee, after consulting each other, would like the Salvadorian delegation to attempt to reply to the questions contained in the list of issues (CRC/C.4/WP.6), beginning with the section entitled "General measures of implementation", which read:

"General measures of implementation

(Arts. 4, 42 and 44, para. 6 of the Convention)

1. Please provide more details about the process of preparing the report, in particular with regard to popular participation and the involvement of non-governmental organizations.

2. What further steps are planned for creating more widespread awareness among adults and children about the principles and provisions of the Convention (paras. 14 to 19 of the report)?

3. Are there any plans to adjust school curricula to give room for education about the Convention? What measures have been taken to train professional groups about the Convention?

4. In view of the apparent absence of a national strategy to monitor the implementation of the Convention on the Rights of the Child, please indicate the effectiveness of present institutional arrangements to promote the rights of the child and monitor implementation of the Convention on the Rights of the Child and whether there are plans to establish other institutions such as an ombudsman for children. Please also indicate to what extent and in what ways the present institutional arrangements relate to the non-governmental organizations in the country.

5. Please clarify whether the provisions of the Convention can be invoked in court.

6. Please list any new legal codes (or amendments to previous laws) which have been adopted in the spirit of the Convention.

7. Are there any plans to improve the collection of statistical data and other necessary information about the status of children? Please detail measures taken to ensure that the authorities obtain necessary information and data about the status of children as a basis for designing programmes for the rights of the child and whether there is a need for technical assistance in this regard.

8. Please indicate what overall plans exist today, on a national and local level, to implement the provisions of the Convention. Please describe steps taken to implement article 4 in regard to the allocation 'to the maximum extent of (...) available resources for the rights of the child'. Please indicate what proportion of the national budget is allocated to social priorities for children in official budgets, both central and local. What indicators or target figures are used in this context?

9. To what extent is international cooperation designed in order to enhance the implementation of the Convention?"

33. Mr. MENDOZA (El Salvador) said that a Legislative Decree establishing the Salvadorian Institute for the Protection of Minors had recently been adopted. One of the Institute's main tasks was to disseminate information on the rights of the child. Moreover, under the Constitution, human rights education formed part of school curricula. Courses on moral and civic values and on human rights were given from the primary-school level and as part of teacher-training. The mass media were also used to inform the population on the rights of the child and, as soon as the new Family Code was approved by the legislature, a further information campaign on the rights of the child would be carried out. Again, important activities in regard to dissemination of information, particularly on the various international instruments ratified by El Salvador, would be conducted in connection with the international seminar on the culture of peace, to be held under UNESCO auspices in February 1994. Information on the rights of the child was also disseminated in the form of school books and posters and lectures given at the workplace. Lastly, it should be noted that the National Secretariat for the Family had also elaborated information programmes concerning ill-treatment of which children might be victims.

34. With regard to item 4, the initial report of El Salvador indicated that, until 1989, no national strategy had been defined in regard to the rights of the child. El Salvador had ratified the Convention on the Rights of the Child in 1989 and, since then, efforts had been made to define a national strategy for the implementation of the Convention.

35. It should also be mentioned that there was a Government Procurator for Juveniles, whose powers were described in paragraph 43 of El Salvador's initial report. Moreover, NGOs had formed a coordinating body for the defence of children's rights which was in permanent contact with the National Secretariat for the Family and the Procurator-General's Office.

36. With regard to item 5, the provisions of the Convention could indeed be invoked in court, since international treaties ratified by El Salvador were enforceable in the country. In reply to Mr. Kolosov's question, it was difficult to estimate the actual number of cases that had been dealt with by the courts. It was true that a large part of El Salvador's population was illiterate but, after the distressing events witnessed by the country in recent years, a very keen awareness of human rights had developed among the population.

37. With respect to item 6, reference should be made to the Family Code that would shortly be approved by the legislature and was based on the Convention; the Act establishing the Salvadorian Institute for the Protection of Minors; and the national policy for minors laid down by the Government. It should also be mentioned that an amendment to the Adoption Act, based on the corresponding provisions of the Convention, was currently being studied. Lastly, a Juvenile Offenders' Act, the provisions of which were also in conformity with those of the Convention, would shortly be promulgated.

38. In reply to question 7, he noted that the Salvadorian Government was currently endeavouring to establish a system enabling all statistics from the various child protection agencies to be centralized. His Government would welcome technical assistance in that area.

39. With regard to question 8, he said that the two most important items in the budget for children were health and education; he would provide the Committee at a later stage with precise figures on the proportion of the national budget devoted to children.

40. Concerning question 9, he emphasized that El Salvador was in great need of international cooperation to implement the Convention, especially the provisions concerning economic, social and cultural rights. In that connection, a number of organizations, particularly UNICEF, were already carrying out child assistance programmes in El Salvador.

41. Mr. HAMMARBERG said that the Committee could not content itself with particulars of the information campaigns conducted in El Salvador or of the new laws that were to be enacted. First and foremost, it would like to be informed, beyond slogans and declarations of intent, of the specific measures taken to give effect to the Convention. For example, what proportion of the budget was set aside for child health and education? When Parliament examined the budget, did it have a special meeting on the rights of the child? Did the

various parliamentary commissions get together to ensure that the rights of the child had not been overlooked in the various sections of the budget? Lastly, he recalled that the Committee was responsible for monitoring the implementation of the Convention on the Rights of the Child, not the Declaration of the Rights of the Child.

42. The CHAIRPERSON pointed out that, contrary to the Declaration, the Convention was binding on States parties.

43. Mr. MOMBESHORA inquired whether there was a body responsible for coordinating activities in favour of children and checking that the funds allotted to a particular group actually reached their intended recipient.

44. Mrs. SANTOS PAIS asked how children had been concretely associated with information campaigns or seminars concerning their rights. Moreover, on what structure could the Deputy Government Procurator for the Defence of the Rights of the Child base himself in performing his task? In future, it would be desirable for the Government of El Salvador to provide the Committee with copies of the reports published by the Office of the Government Procurator for the defence of Human Rights. That would enable the Committee to know what measures were taken to protect human rights in general and the rights of the child in particular.

45. Mrs. EUFEMIO said she would like the Salvadorian delegation and the Committee to reflect on possible training activities for persons dealing with children designed to ensure that such persons adopted a truly positive attitude towards children.

46. Mrs. SARDENBERG inquired whether steps had been taken to remedy the almost total lack of coordination between NGOs and government bodies with regard to national policy for minors, and whether the State was still unable to act in certain areas, as indicated in paragraph 8 of the report.

47. The CHAIRPERSON invited the Salvadorian delegation and the experts to continue the consideration of the initial report of El Salvador at the following meeting.

48. The Salvadorian delegation withdrew.

The meeting rose at 1 p.m.